

(B) For any purpose that would violate the nondiscrimination requirements set forth in §302.20 of this chapter.

(ii) EDA may require a Recipient (or its successors in interest) who intends or foresees the use of Real Property or tangible Personal Property for inherently religious activities following the release of EDA's interest to compensate EDA for the Federal Share of such Property. EDA recommends that a Recipient who intends or foresees the use of Real Property or tangible Personal Property (including by successors of the Recipient) for inherently religious activities to contact EDA well in advance of requesting a release pursuant to this section.

## **PART 315—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS**

### **Subpart A—General Provisions**

Sec.

- 315.1 Purpose and scope.
- 315.2 Definitions.
- 315.3 Confidential Business Information.
- 315.4 Eligible petitioners.
- 315.5 TAAC scope, selection, evaluation and awards.
- 315.6 Firm eligibility for Adjustment Assistance.

### **Subpart B—Certification of Firms**

- 315.7 Certification requirements.
- 315.8 Processing petitions for certification.
- 315.9 Hearings.
- 315.10 Loss of certification benefits.
- 315.11 Appeals, final determinations and termination of certification.

### **Subpart C—Protective Provisions**

- 315.12 Recordkeeping.
- 315.13 Audit and examination.
- 315.14 Certifications.
- 315.15 Conflicts of interest.

### **Subpart D—Adjustment Proposals**

- 315.16 Adjustment Proposal Requirements.

### **Subpart E—Assistance to Industries**

- 315.17 Assistance to Firms in import-impacted industries.

AUTHORITY: 42 U.S.C. 3211; 19 U.S.C. 2341 *et seq.*; Department of Commerce Organization Order 10–4.

SOURCE: 71 FR 56675, Sept. 27, 2006, unless otherwise noted.

## **Subpart A—General Provisions**

### **§ 315.1 Purpose and scope.**

The regulations in this part set forth the responsibilities of the Secretary of Commerce under chapter 3 of title II of the Trade Act concerning Trade Adjustment Assistance for Firms. The statutory authority and responsibilities of the Secretary of Commerce relating to Adjustment Assistance are delegated to EDA. EDA certifies Firms as eligible to apply for Adjustment Assistance, provides technical Adjustment Assistance to Firms and other recipients, and provides assistance to organizations representing trade injured industries.

### **§ 315.2 Definitions.**

In addition to the defined terms set forth in §300.3 of this chapter, the following terms used in this part shall have the following meanings:

*Adjustment Assistance* means technical assistance provided to Firms or industries under chapter 3 of title II of the Trade Act.

*Adjustment Proposal* means a Certified Firm's plan for improving its economic situation.

*Certified Firm* means a Firm which has been determined by EDA to be eligible to apply for Adjustment Assistance.

*Confidential Business Information* means any information submitted to EDA or a TAAC by a Firm that concerns or relates to trade secrets for commercial or financial purposes, which is exempt from public disclosure under 5 U.S.C. 552(b)(4), 5 U.S.C. 552b(c)(4) and 15 CFR part 4.

*Contributed Importantly*, with respect to an Increase in Imports, refers to a cause which is important but not necessarily more important than any other cause. Imports will not be considered to have Contributed Importantly if other factors were so dominant, acting singly or in combination, that the worker separation or threat thereof or decline in sales or production would have been essentially the same, irrespective of the influence of imports.

*Decreased Absolutely* means a Firm's sales or production has declined by a minimum of five (5) percent relative to

its sales or production during the applicable prior time period, and:

(1) Irrespective of industry or market fluctuations; and

(2) Relative only to the previous performance of the Firm.

*Directly Competitive* means:

(1) Articles which are substantially equivalent for commercial purposes (*i.e.*, are adapted to the same function or use and are essentially interchangeable); and

(2) Oil or natural gas (exploration, drilling or otherwise produced).

*Firm* means an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustee in bankruptcy or receiver under court decree and including fishing, agricultural entities and those which explore, drill or otherwise produce oil or natural gas. For purposes of receiving benefits under this part, when a Firm owns or controls other Firms, the Firm and such other Firms, may be considered a single Firm when they produce like or Directly Competitive articles or are exerting essential economic control over one or more production facilities. Such other Firms include:

(1) *Predecessor*—see the following definition for Successor;

(2) *Successor*—a newly established Firm (that has been in business less than two years) which has purchased substantially all of the assets of a previously operating company (or in some cases a whole distinct division) (such prior company, unit or division, a “Predecessor”) and is able to demonstrate that it continued the operations of the Predecessor which has operated as an autonomous unit, provided that there were no significant transactions between the Predecessor unit and any related parent, subsidiary, or affiliate that would have affected its past performance, and that separate records are available for the Predecessor’s operations for at least two years before the petition is submitted. The Successor Firm must have continued virtually all of the Predecessor Firm’s operations by producing the same type of products, in the same plant, utilizing most of the same machinery and equipment and most of its

former workers, and the Predecessor Firm must no longer be in existence;

(3) *Affiliate*—a company (either foreign or domestic) controlled or substantially beneficially owned by substantially the same person or persons that own or control the Firm filing the petition; or

(4) *Subsidiary*—a company (either foreign or domestic) that is wholly owned or effectively controlled by another company.

*Increase in Imports* means an increase of imports of Directly Competitive or Like Articles with articles produced by such Firm that Contributed Importantly to the applicable Total or Partial Separation or threat thereof, and to the applicable decline in sales or production.

*Like Articles* means any articles which are substantially identical in their intrinsic characteristics.

*Partial Separation* means, with respect to any employment in a Firm, either:

(1) A reduction in an employee’s work hours to eighty (80) percent or less of the employee’s average weekly hours during the year of such reductions as compared to the preceding year; or

(2) A reduction in the employee’s weekly wage to eighty (80) percent or less of his/her average weekly wage during the year of such reduction as compared to the preceding year.

*Person* means an individual, organization or group.

*Record* means any of the following:

(1) A petition for certification of eligibility to qualify for Adjustment Assistance;

(2) Any supporting information submitted by a petitioner;

(3) The report of an EDA investigation with respect to petition; and

(4) Any information developed during an investigation or in connection with any public hearing held on a petition.

*Significant Number or Proportion of Workers* means five (5) percent of a Firm’s work force or fifty (50) workers, whichever is less. An individual farmer or fisherman is considered a Significant Number or Proportion of Workers.

### § 315.3

*Substantial Interest* means a direct material economic interest in the certification or non-certification of the petitioner.

*TAAC* means a Trade Adjustment Assistance Center, as more fully described in § 315.5.

*Threat of Total or Partial Separation* means, with respect to any group of workers, one or more events or circumstances clearly demonstrating that a Total or Partial Separation is imminent.

*Total Separation* means, with respect to any employment in a Firm, the laying off or termination of employment of an employee for lack of work.

### § 315.3 Confidential Business Information.

EDA will follow the procedures set forth in 15 CFR 4.9 for the submission of Confidential Business Information. Submitters should clearly mark and designate as confidential any Confidential Business Information.

### § 315.4 Eligible petitioners.

Eligible petitioners for assistance under this part shall be:

(a) Trade Adjustment Assistance Centers (“TAACs”). A TAAC can be a(n):

- (1) University affiliate;
- (2) State or local government affiliate; or
- (3) Non-profit organization.

(b) Firms; or

(c) Organizations assisting or representing industries in which a substantial number of Firms or workers have been certified as eligible to apply for Adjustment Assistance under sections 223 or 251 of the Trade Act, including:

- (1) Existing agencies;
- (2) Private individuals;
- (3) Firms;
- (4) Universities;
- (5) Institutions;
- (6) Associations;
- (7) Unions; or
- (8) Other non-profit industry organizations.

### § 315.5 TAAC scope, selection, evaluation and awards.

(a) *TAAC purpose and scope.* (1) TAACs are available to assist Firms in

### 13 CFR Ch. III (1–1–07 Edition)

obtaining Adjustment Assistance in all fifty (50) U.S. States, the District of Columbia and the Commonwealth of Puerto Rico. TAACs provide Adjustment Assistance in accordance with this part either through their own staffs or by arrangements with outside consultants. Information concerning TAACs serving particular areas may be obtained from the TAAC Web site at <http://www.taacenters.org> or from EDA. See the applicable FFO for the appropriate points of contact and addresses.

(2) Prior to submitting a petition for Adjustment Assistance to EDA, a Firm should determine the extent to which a TAAC can provide the required Adjustment Assistance. EDA will provide Adjustment Assistance through TAACs whenever EDA determines that such assistance can be provided most effectively in this manner. Requests for Adjustment Assistance will normally be made through TAACs.

(3) TAACs generally provide Adjustment Assistance to a Firm by providing the following:

(i) Assistance to a Firm in preparing its petition for certification;

(ii) Assistance to a Certified Firm in diagnosing its strengths and weaknesses and developing its Adjustment Proposal; and

(iii) Assistance to a Certified Firm in the implementation of its Adjustment Proposal.

(b) *TAAC selection.* (1) EDA invites currently funded TAACs to submit either new or amended applications; provided they have performed in a satisfactory manner and complied with previous and/or current conditions in their Cooperative Agreements with EDA and contingent upon availability of funds. Such TAACs shall submit an application on a form approved by OMB, as well as a proposed budget, narrative scope of work, and such other information as requested by EDA. Acceptance of an application or amended application for a Cooperative Agreement does not assure funding by EDA.

(2) EDA may invite new TAAC proposals through an FFO. If such a proposal is acceptable, EDA will invite an application on a form approved by OMB. An application will require a narrative scope of work, proposed budget